

The only issues on review are whether the Commissioner applied the correct legal standards and whether the Commissioner’s decision is supported by substantial evidence. *Richardson v. Perales*, 402 U.S. 389, 390 (1971); *Hays v. Sullivan*, 907 F.2d 1453, 1456 (4th Cir. 1990). Review by a federal court is not *de novo*, *Smith v. Schwieker*, 795 F.2d 343, 345 (4th Cir. 1986); rather, inquiry is limited to whether there was “such relevant evidence as a

reasonable mind might accept as adequate to support a conclusion,” *Richardson*, 402 U.S. at 400. Even if the undersigned were to find that a preponderance of the evidence weighed against the Commissioner’s decision, the Commissioner’s decision would have to be affirmed if supported by substantial evidence. *Hays*, 907 F.2d at 1456.

The Court has carefully considered the motions and reviewed the briefs and the record and finds that the ALJ’s decision is not supported by substantial evidence. The Court finds the Plaintiff’s arguments to be persuasive as to both his assignments of error. Accordingly, for the reasons stated in Plaintiff’s brief, Plaintiff’s Motion for Summary Judgment will be granted, the Commissioner’s Motion for Summary Judgment will be denied, and the decision of the Commissioner will be vacated.

ORDER

IT IS, THEREFORE, ORDERED that

- (1) the decision of the Commissioner, denying the relief sought by Plaintiff, is **VACATED**;
- (2) the Plaintiff’s Motion for Summary Judgment (Doc. No. 9) is **GRANTED**; and
- (3) the Commissioner’s Motion for Summary Judgment (Doc. 11) is **DENIED**; and
- (4) the matter is hereby **REMANDED** for further consideration.

Signed: February 11, 2020



Graham C. Mullen
United States District Judge

